

1 STATE OF ILLINOIS )

2 ) SS:

3 COUNTY OF L A K E )

4 IN THE CIRCUIT COURT FOR THE NINETEENTH  
5 JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

6 IN RE: THE MARRIAGE OF )  
7 )  
8 SARINA ERVIN, )  
9 )  
10 ) Petitioner, )  
11 ) and ) 04 D 1943  
12 )  
13 RAYMOND ERVIN, )  
14 ) Respondent. )  
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13 REPORT OF PROCEEDINGS had in the hearing  
14 of the above-entitled matter before the HONORABLE  
15 DANIEL JASICA, Judge of said Court, at 18 North  
16 County Street, C-307, Waukegan, Illinois on the 2nd  
17 day of June 2017 at 1:30 PM.

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BY: ENRICO J. MIRABELLI, ESQ.  
JONATHAN D. STEELE, ESQ.

on behalf of Petitioner

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on behalf of Respondent

OFFICE OF LAKE COUNTY STATE'S ATTORNEY  
18 North County Street  
Waukegan, IL 60085  
BY: LISLE A. STALTER, ESQ.  
SUZANNE SALZWEDEL, ESQ.

1                   THE COURT: So now comes up on Ervin  
2     versus Ervin 04 D 1943. I think there's two, well,  
3     there's two motions that are fully briefed that are  
4     prepared for hearing today.

5                   I did get a third motion that was just up  
6     for presentment I think today. But in order I will  
7     take them as the petition to intervene by the  
8     Illinois Department of Health Care and Family  
9     Services. I have read the petition. I have read  
10    the response and the petition.

11                  Any additional argument, Ms. Stalter or  
12    Ms. Salzwedel, that you wish to make?

13                  MS. STALTER: I would just in looking at  
14    the Illinois Public Aid Code and the other relevant  
15    things that talk about when a Petitioner, an  
16    individual receives services from the State that  
17    individual does assign their rights to the State for  
18    purposes of collecting child support. So there is a  
19    statutory basis for the department to intervene as  
20    of right.

21                  And it's actually been an issue that's  
22    never been questioned before that we know of but the  
23    Illinois Statutes do provide that. And I don't  
24    think Mr. Boldt provided any legal basis as to why.  
25    He just said that it's, that the, why the, sorry.

1 What?

2 MS. SALZWEDEL: Paragraph four.

3 MS. STALTER: I am sorry. Thank you. Why  
4 the department shouldn't be able to intervene. It  
5 just should not be allowed to intervene other than  
6 that it's not timely. But at this point in time the  
7 department is seeking and this is indicated in the  
8 petition to make sure that the monies due to the  
9 Crown are preserved. Throughout these continuing  
10 proceedings that there was monies in arrearages that  
11 are due.

12 They are simply seeking to have those  
13 preserved. So there is not, that is not an interest  
14 that would be protected by either of the parties and  
15 it should give the department the right to  
16 intervene.

17 THE COURT: Thank you. It's my  
18 understanding that Ms. Ervin is not objecting  
19 to the petition; correct?

20 MR. STEELE: Judge, my understanding from  
21 speaking with the State's Attorney's office is  
22 that the order they are seeking is an order  
23 that recites the arrearage and that they are  
24 entitled to notice and that any, that the  
25 parties basically can't enter an agreed order

1       that would extinguish the arrearage without  
2       notice to the State or without consent from the  
3       State. To the extent that's the relief that  
4       they are seeking today we don't have an  
5       objection.

6             My understanding is that they are not  
7       attempting to seek any of the specific funds  
8       that have been turned over to our firm. So  
9       based on that we are not objecting.

10            THE COURT: All right. Mr. Boldt.

11            MR. BOLDT: Yes, Judge. At least now I  
12       know it's under subparagraph A they are seeking  
13       because their motion didn't state that they  
14       wished to intervene as a matter of right,  
15       Judge. I did raise the right issue of  
16       timeliness because timeliness is involved in  
17       subparagraph A which is by right, and  
18       subparagraph B which is by permission, Judge.

19            The issue that I am raising to the Court  
20       about whether they are able to intervene by  
21       right under number one, two or three as stated  
22       in 408 which is either a statute confers an  
23       unconditional right. There is no statute cited  
24       that confers them an unconditional right.

25            Whether the representation of their

1 interest by existing parties is or may be  
2 inadequate and the Applicant may be bound by an  
3 order of judgment in the action, Judge, they  
4 are not seeking anything in this action other  
5 than a statement that the Crown is owed some  
6 money; and the money that's sitting out there  
7 they don't care anything about.

8 So my question is, how can it possibly be  
9 under two inadequate representation because  
10 they are not seeking anything other than some  
11 sort of preserving an arrearage.

12 And quite frankly I looked at that motion,  
13 Judge, and cites no local rule or statute or  
14 Supreme Court Rule or case that allows them to  
15 even bring that motion. We have not briefed  
16 that yet, but I just point that out to the  
17 Court.

18 And the last one is that the Applicant is  
19 so situated as to be adversely affected by a  
20 distribution or disposition of property in the  
21 custody or subject control or disposition of  
22 the Court or a Court officer.

23 Again, they are not seeking any money of  
24 what the Court has control of at this time. So  
25 to be blunt I don't see why they even filed a

1 petition to intervene. Now in their motion as  
2 to determining the arrearage they make an  
3 allegation that the assignment from Ms. or by  
4 Ms. Sarina Ervin to the Crown ended in 2006.

5 Now if it ended in 2006 why are they  
6 seeking to intervene 11 years later. More  
7 importantly why are they seeking to intervene  
8 11 years later when in 2006 the State's  
9 Attorney's Office of Lake County filed an  
10 action under 06 F 425. And then as you pointed  
11 out to me when the State was not here they  
12 either abandoned or that action was dismissed.

13 Now if in fact the assignment is over one  
14 question, A, whether it's timely and, B,  
15 whether they have any interest at all. So I  
16 don't understand why the State is seeking to  
17 intervene.

18 Now something came up, Judge, and my  
19 client faxed it to me yesterday. I have got a  
20 copy for the Court to look at and I brought a  
21 copy for Ms. Stalter also. Since they were not  
22 objecting, they being Ms. Evans, was not  
23 objecting to the intervention I did make a copy  
24 for them. But HFS has sent to my client as a,  
25 well, it's dated May 17, 2017 an income



1 withholding notice for support from HFS.

2 Now it seeks to have current support  
3 withheld only, doesn't cite an arrearage. And  
4 in fact when it asked if there is an arrearage  
5 greater than 12 weeks they state no. Here,  
6 Judge. I brought one.

7 THE COURT: I didn't want to look at it  
8 until opposing Counsel has had a chance to look  
9 at it and see whether she objects to me even  
10 looking at it.

11 MR. BOLDT: Well, I am raising this,  
12 Judge, for two purposes. If in fact the  
13 assignment is over with why are they filing  
14 this notice as of this year?

15 And if in fact the assignment isn't over  
16 with then the State's position is and would  
17 have to be if the assignment hasn't been ended  
18 is that Ms. Ervin is entitled to nothing.

19 The assignment is still in full force and  
20 effect. We are attempting to collect it. So  
21 we want to stand in the shoes of Ms. Ervin and  
22 her Counsel and turnover the money to us. They  
23 can not have it both ways.

24 So on the outside looking in after June  
25 1st and this being faxed to me from my client



1       because I think he got it on Monday or Tuesday.  
2       Excuse me. This is a short week. The 30th  
3       that the State is now through HFS seeking to  
4       enforce some sort of current child support  
5       amount. That's what the document says to me.  
6       I don't know what it says to Ms. Stalter.

7               The question now brings into, up to the  
8       Court, well, why are they doing this if they  
9       have no assignment. More importantly, if they  
10      have no assignment why are they seeking to  
11      intervene; and if the assignment still exists  
12      then they shouldn't be filing a motion.

13             Well, I shouldn't tell them what they  
14      should do. But it would seem that their claim  
15      for the Crown would be superior to Ms. Ervin's  
16      claim because in '99 she assigned all of her  
17      interest. And that doesn't even come to  
18      explain why the State started the 06 F case and  
19      then had it dismissed or abandoned it, Judge.

20             So I don't think they have a right to  
21      intervene. I think if the Court determines  
22      they have a right to intervene I think the  
23      Court then has to presume because they didn't  
24      attach the release of the assignment to their  
25      pleadings which was the motion to preserve

1        arrearage that the Court has a right to presume  
2        that the 1999 I believe assignment which can  
3        only be revoked by the Crown is still in full  
4        force and effect. Because if this is valid  
5        that assignment must be still in full force and  
6        effect.

7                THE COURT: Any response; reply I should  
8        say.

9                MS. STALTER: Yes. First of all, with  
10       respect to whether or not citing the legal  
11       authority to intervene our petition to  
12       intervene does cite with respect to starting on  
13       the petition to intervene the petition to  
14       intervene does cite section, I am sorry,  
15       Illinois Public Aid Code 305 ILCS 5-10-1.

16               That gives the department through our  
17       office the right to intervene in to cases where  
18       there is child support enforcement. And also  
19       it ties into Title 4(d) of the Social Security  
20       Act which is at 42 USC 651. That's in our  
21       petition to intervene. That's our legal basis  
22       to intervene. Mr. Boldt said we didn't cite  
23       anything. It's right there on the petition.

24               Under 2-408 we are required to attach a  
25       document that we are seeking to intervene on.

1 And that's what we did. We attached the  
2 petition to preserve the arrearage and  
3 essentially have a Court order in this matter  
4 recognizing that the Crown is owed arrearages  
5 for Ms. Ervin.

6 The fact that she is no longer in the  
7 program and withdrew in 2006 is not relevant  
8 with respect to whether or not those monies are  
9 still due and owing to the Crown.

10 And so that and the interest of the two  
11 individuals, Petitioner and the Respondent  
12 Sarina and Raymond, are not protecting the  
13 interest of the Crown. And so that's why there  
14 is a basis and a request to intervene.

15 And the order we are asking is that when  
16 intervention is allowed that that arrearage  
17 amount be protected and that we have the  
18 authority or that the Crown has the authority  
19 to collect and enforce the payment due as  
20 permitted by law.

21 So each one of those elements and 2-408  
22 are there and present so we do establish the  
23 legal authority. We establish that the right  
24 of the Crown are not protected by the parties  
25 currently in the proceeding. And the fact that

1 she withdrew in 2006 does not necessarily mean  
2 that those rights are no longer valid or there.

3 With respect to the document that Mr.  
4 Boldt was attempting to provide to you it is  
5 simply an administrative process that the  
6 department has for collecting on child support.  
7 And so it's not relevant to this proceeding.

8 MS. SALZWEDEL: It is not a Court order,  
9 Judge. It's a simple withhold notice.

10 And typically what the department will do  
11 is once there is something called a payment  
12 path change they will issue this legal notice.  
13 The payment path change is something. PPC.

14 MS. STALTER: Thank you for letting  
15 Suzanne speak. She is much more.

16 THE COURT: So help me understand what you  
17 believe the document that Mr. Boldt has handed  
18 you and me is.

19 MS. SALZWEDEL: It is a withhold notice,  
20 Your Honor.

21 THE COURT: What is the effect of that  
22 withhold notice under Illinois law as you  
23 understand it?

24 MS. SALZWEDEL: If sent to an employer the  
25 employer is required to go ahead and withhold

1 the amount cited.

2 THE COURT: In this case who was it sent  
3 to?

4 MR. BOLDT: If I may, Judge. I know. I  
5 just know.

6 MS. SALZWEDEL: To him. Looks like it was  
7 sent to him.

8 MR. BOLDT: Illinois Department. It was  
9 sent to him but I believe it's seeking to  
10 withhold money from the Illinois Department of  
11 Employment Security.

12 MS. SALZWEDEL: Oh. I see it. IDES.

13 THE COURT: Their role in all of this is  
14 what as you understand it?

15 MS. SALZWEDEL: IDES, Your Honor?

16 THE COURT: Yes.

17 MS. SALZWEDEL: Apparently Mr. Ervin is  
18 getting unemployment insurance benefits.

19 THE COURT: Okay. And there was, you have  
20 cited I know in your motion or your petition  
21 you cited the Illinois Public Aid Code  
22 generally. You didn't cite a particular  
23 statute. Is there a particular statutory  
24 citation that I should be looking at for this  
25 right to intervene?

1 MS. STALTER: It's actually 10-10, 305  
2 ILCS 5/10-10. If you look in the middle of  
3 that first paragraph it says, child and spousal  
4 support unit established by 10-3.1 may  
5 institute on behalf of the State of the  
6 Illinois Department any action under this  
7 section for judicial enforcement of the support  
8 liability when the dependents are applicants or  
9 recipients under Articles 3, 4, 5 and 7 and the  
10 TANF Program, the Temporary Assistance For  
11 Needy Families is under Article 4.

12 So this is an Article 4 case.

13 THE COURT: All right. Anything else you  
14 want to tell me?

15 MS. SALZWEDEL: I don't know if it's  
16 relevant, Your Honor, the issue of abandonment  
17 of the 06 F 425 case. Really what happened was  
18 the two cases were consolidated. And there is  
19 a Court order that consolidates 06 F 425 in to  
20 04 D 1943.

21 THE COURT: One being the child  
22 enforcement case; one being the divorce case.

23 MS. SALZWEDEL: Correct.

24 MR. BOLDT: Judge, if I may. That's  
25 incorrect. It was consolidated into 00 D 2067

1       which is also closed. The printout I obtained  
2       from the clerk indicates that 06 F 425 was  
3       consolidate into 00 D --

4               MS. SALZWEDEL: Oh. You are correct.

5               MR. BOLDT: — 2067 which is also a closed  
6       case at this time to my understanding, Judge.

7               And that's hence why I made the argument  
8       it's never been consolidated into the 04 case.

9               THE COURT: All right. Well, it does  
10      appear to me that there is a potential claim  
11      that could be asserted by either the State of  
12      Illinois or the Crown of Canada to collect the  
13      child support. So I am looking at Section  
14      2-408 either A(1) or A(3).

15              It strikes me that they certainly could be  
16      adversely affected by distribution of the money  
17      that was ordered to be turned over and is  
18      currently being held by Counsel for Ms. Ervin.

19              So I am granting the petition to intervene  
20      that has been filed by the Illinois Department  
21      of Health and Family Services.

22              That being the case the other motion that  
23      is pending is the motion to vacate and  
24      reconsider that's been filed by Mr. Ervin which  
25      has been fully briefed. I have read the



1 motion, the response and the reply but I do  
2 invite Counsel to make any further argument if  
3 they wish to make with respect to that.

4 MR. BOLDT: If I may, Judge.

5 THE COURT: Yes, sir.

6 MR. BOLDT: The first matter I will  
7 address is the fact that Counsel for Ms. Ervin  
8 has raised the issue of whether or not the  
9 motion is timely.

10 I cited to this Court PNC Bank versus  
11 Hoffmann, 36 Northeastern Second 971, a Second  
12 Appellate District case 2015. The parallel  
13 cite is 394 Illinois Decision 680.

14 In that case, Judge, the Court was called  
15 upon to determine when in fact the 1402 or the  
16 turnover of funds when that occurs as to the  
17 finality of the order.

18 And on page 976 under notes one and two  
19 the Court goes through the exercise of saying  
20 that few cases discuss when an order in  
21 supplementary proceedings are final orders.  
22 Generally a final order is one that disposes of  
23 the parties rights with respect to either the  
24 entire controversy or some definite and  
25 separate portion of the controversy.

1           And then citing another case Inland  
2           Commercial Property Management versus HOB1  
3           Holding Corp, said an order under Section  
4           2-1402, proceeding is said to be final when the  
5           citation Petitioner is in a position to collect  
6           against the judgment debtor or Third-Party or  
7           the citation Petitioner has been ultimately  
8           foreclosed from doing so.

9           The Court order of April 12th was the  
10          first Court order that allowed the money to be  
11          turned over to Sarina Evan's, Ervin's, excuse  
12          me, attorneys. Prior to that the order had  
13          been stayed. In fact it stayed until this day.

14          It was stayed after the, it was ordered to  
15          be turned over and it was stayed until the 19th  
16          of May to allow the State to make any claim.

17          So first of all, Judge, we could state  
18          that the money to be turned over to the  
19          judgment creditor in this case did not and  
20          could not take effect until May 19th under the  
21          Court's order of April 12th.

22          In fact it wasn't until after April 12th  
23          that the judgment creditor Sarina Ervin's  
24          attorneys began to receive checks from the  
25          three individuals -- not individuals --

1 insurance companies concerning the turnover  
2 order, Judge.

3 So I hope by the idea of the stay of the  
4 Court prior to that date on the 12th and then  
5 the lifting of the stay as no monies were  
6 turned over before that that we put to bed once  
7 and for all whether it is timely or not.

8 Somewhat tied to that issue is the case of  
9 Schak versus Blom but I will discuss that  
10 later.

11 Now my count one, Judge, motion to vacate,  
12 rehear and reconsider brings up the fact that  
13 the citations in this case, and I have not seen  
14 the original citations. They are not in the  
15 Court file. I looked at it before preparing my  
16 reply. There also is no return of service on  
17 any of those citations, Judge. But I attached  
18 to my original motion copies that were sent to  
19 my client of those three citations.

20 None of them were signed by Counsel for  
21 the judgment creditor or alleged judgment  
22 creditor is what I should say. Because my  
23 position takes or my motion takes and reply  
24 takes the position there is no judgment.

25 So if it's not signed or certified, Judge,

1 the statute is clear. It says it shall be  
2 certified, and it's not. And it's not signed  
3 in the location where the line says witness and  
4 you sign it. To further indicate that  
5 Petitioner's Counsel who's alleged judgment  
6 creditor in here knew or should have known that  
7 it should be signed is my exhibit, I think it's  
8 C, may be A or B to my reply, Judge.

9 Because in that exhibit the previous  
10 citation which this Court quashed because it  
11 cited a judgment that had been vacated is  
12 signed under the witness line or on the witness  
13 line by Kyle Cooper, the attorney who  
14 represented the Petitioner previously herein.

15 He signed that citation certifying under  
16 109 of the Illinois Code of Civil Procedure  
17 that that judgment was valid. It turned out  
18 not to be but at least it was executed.

19 The language is mandatory in A it shall be  
20 certified. None of these are certified that I  
21 can tell. It's their responsibility to have  
22 them certified Judge. Now.

23 THE COURT: But let me assume and I just  
24 want to know what your position is. Okay.  
25 Assume I agree with you.

1 MR. BOLDT: Okay.

2 THE COURT: That the order that was  
3 entered I think it was what, March 15th was the  
4 first order that directed the funds to be  
5 remitted to I believe.

6 MR. BOLDT: The March 15th order.

7 THE COURT: Do you have a copy of the  
8 March 15th order?

9 MR. BOLDT: Yes. I do.

10 THE COURT: If you have it handy I would  
11 like to see it.

12 MR. BOLDT: I think I do. I may be don't,  
13 Judge, because.

14 MR. MIRABELLI: I am sure Mr. Steele would  
15 have a copy.

16 MR. BOLDT: I don't believe I do, Judge.

17 THE COURT: I know I have it here, too. I  
18 will find it.

19 MR. BOLDT: But that order required a  
20 turnover and then that order was stayed until  
21 April 12th because at the time the order was  
22 entered I had the pending motion to quash.

23 THE COURT: March 17.

24 MR. BOLDT: Right. And so it was stayed.  
25 And that's why I took the position as in PNC

1 Bank versus Hoffmann case. Now as I said,  
2 Judge, the previous citation was signed  
3 appropriately according to the statute. There  
4 is no, there is no wiggle room in the statute.

5 I see Mr. Steele's motion for sanctions as  
6 a thinly veiled sur reply to my reply, Judge.  
7 There is no other way to describe it. I don't  
8 see, Mr. Steele raises in that motion for  
9 sanctions that, oh, geez, it's a pleading; we  
10 should just be able to sign it, Judge.

11 From the beginning this Court has known as  
12 the case law is clear you cannot amend a  
13 citation. A citation is not a pleading. It  
14 doesn't come under the Illinois Code of Civil  
15 Procedure so signing it afterwards is not  
16 sufficient.

17 As to count two, Judge, it's rather  
18 direct. 505 allows a judgment to accrue every  
19 month but you got to go to Court and obtain a  
20 judgment. We know that because that's what the  
21 State is trying to do. They are trying to  
22 preserve the arrearage and have put together  
23 their calculations, their amount. They have an  
24 affidavit. They are seeking a judgment and  
25 they know and so should Petitioner's Counsel

1 know that they need a judgment because they  
2 have been through this before, Judge, when they  
3 alleged that a judgment was valid when it isn't  
4 valid.

5 There's no mechanism under 505(d) to  
6 automatically turn it into a judgment. There  
7 is nothing other than stating it is a judgment  
8 for the purposes of I presume retroactivity.  
9 Because I don't know if the Court is aware — I  
10 am sure all Counsel standing up here is  
11 aware — you cannot go back retro actively and  
12 change an amount of child support at any time.

13 You can only change child support  
14 prospectively after the motion to modify has  
15 been filed, Your Honor.

16 I will now turn to count three which,  
17 Judge, is the count that alleges that there is  
18 no authority under 2-1402 of 735 ILCS 5/2-1402,  
19 to order the surrender of the insurance  
20 policies. These are Third-Party contracts; a  
21 contract between my client Raymond Ervin and  
22 Monarch Life, Penn Mutual and Lincoln  
23 Financial. There is no provision under 1402  
24 that allows the Court to reach that asset.

25 The actions by the insurance company is to



1 turnover the funds without a signed document, a  
2 signed Third Party citation without a specific  
3 judgment and then turning it over just boggles  
4 my mind, Judge.

5 But in any event, I have cited the Itasca  
6 Bank versus Thorlief Larsen and Son, 352 Il App  
7 Third 262, a 2004 case to the Court.

8 Now the Court goes through quite an  
9 exercise for lack of a better term, Judge,  
10 quite an explanation as to the attempts in that  
11 case to have a judgment debtor turnover his  
12 Medina Country Club membership for a rather  
13 large judgment. In that case they tried to  
14 have him turnover the membership. The trial  
15 Court refused.

16 They tried to have the trial Court order  
17 the sale of the club membership. The trial  
18 Court refused. And the trial Court refused to  
19 order the resignation of the membership by the  
20 individual to satisfy the debt also. And it  
21 was all upheld on appeal.

22 In this case, Judge, which I presume the  
23 other party is contending similarly that  
24 because it's not exempt or would be argued not  
25 exempt under the exemption statute that somehow

1       Section 2-1401 must provide a mechanism for the  
2       Court to receive something that may not be  
3       exempt under the Illinois Statutes. And as the  
4       Court stated in the Itasca Bank case, while the  
5       motion of perfect interrelationship between the  
6       exemption provisions in Section 2-1402 is  
7       attractive they find nothing in Section 2-1402  
8       that requires it.

9             Judge, the Court goes on to state that in  
10       that case the Plaintiff does not point to any  
11       provision in the section that explicitly  
12       authorizes an order requiring the resignation  
13       of the membership. They didn't find one.

14            The Court goes on to state that under  
15       Section 2-1402 and the argument that that  
16       statute should be liberally construed to give  
17       Courts broad powers to compel application of  
18       discovered assets to the satisfaction that  
19       judgments; the Court responds with we must find  
20       that any power needed to reach a non exempt  
21       asset is implicit in the section. The Court  
22       rejects that.

23            The Court says, such an interpretation  
24       comports neither with the rules of statutory  
25       construction nor historical interpretation of

1 provisions. Rules regarding strict or liberal  
2 constructions are meant to decide in whose  
3 favor a Court should resolve uncertainties not  
4 a means to restrict or expand the statute  
5 beyond what it clearly says.

6 It goes on to state, that a Court over  
7 reaches if it goes beyond construing the  
8 statute as it is written under the guise of  
9 construction reads a new provision in to it to  
10 remedy omissions the Court may perceive.

11 Now the Court in that case cites two cases  
12 In Re the Marriage of Pick which is 167 Il App  
13 Third 294, a 1988 case. It also cites a case  
14 entitled Kennedy. And I am trying to look for  
15 that cite, Judge. Kennedy versus Four Brothers  
16 Labor Service, Inc. 79 Il App Third 361, a 1966  
17 case.

18 In approving grabbing or obtaining money  
19 from a corporate officer who sold corporate  
20 assets to avoid a judgment the Court said you  
21 could do that because obviously the proceeds  
22 were part of those assets. But the Court also  
23 contrasted the Pick matter which was a  
24 dissolution of marriage, Judge, because in that  
25 case the Court ordered that the stock I believe

1       it was, Judge, be placed in the hands of a  
2       sequester and sold in a private sale and not  
3       pursuant to the statutes requirement that all  
4       of it be delivered to the sheriff and be sold  
5       that way. The Court reversed and said, no, you  
6       cannot do that.

7               The Second District went on to cite a case  
8       called Business Service Bureau out of the  
9       Fourth District, Judge, called Business Service  
10      Bureau, Inc. versus Martin, 306 Il App Third  
11      907, a 1999 case. Where it states that the  
12      Fourth District panel agreed with the creditor  
13      that it should construe liberally the language  
14      of the provisions creating supplementary  
15      proceedings. It disagreed that the failure to  
16      allow orders in that case to have somebody  
17      search or employment would frustrate Section  
18      2-1402 scheme for assisting creditors and  
19      satisfying their judgments and that such orders  
20      were essential to satisfy the statute's  
21      purpose.

22              What is most interesting to me and I think  
23      to the Court is the last full paragraph where  
24      it talks about the Court's conclusion is  
25      supported by the resolution of a most similar

1 case they have located in any jurisdiction  
2 which is SafeCo Insurance Company of America  
3 versus Skeen, S-K-E-E-N, 47 Washington  
4 Appellate 196, a 1987 case. In that case they  
5 sought, the judgment creditor sought to have  
6 the judgment debtor sell, who was a Boeing  
7 executive, sell his stock appreciation rights  
8 to satisfy a judgment, Your Honor.

9 And the Court approved of the statement  
10 that it held that the Washington Execution Law  
11 despite providing for commanding enforcement of  
12 obedience to any special order of the Court did  
13 not give the trial Court authority to direct  
14 the management of the judgment debtor's assets  
15 or contract rights for the benefit of the  
16 judgment creditor.

17 And that's the point I am putting forth,  
18 Judge. The Court cited approvingly that a  
19 trial Court can not affect contract rights for  
20 the benefit of a judgment creditor because the  
21 Court says we reached the same conclusion under  
22 Section 2-1402.

23 Now, Judge, that's important because I  
24 cited the Gonzalez case to the Court. And I am  
25 not going to go in to that case. That is a

1       2002 case. 333 Il App Third 680, a 2002 case  
2       from the First District Fifth Division.

3             But I think both of those cases are very  
4       instructive when you look at the new statute,  
5       Your Honor, involving 1402.

6             And when you look at 1402 you can see if  
7       you do the history, and I think everybody would  
8       have, that the Illinois Legislature in Section  
9       C(5) added language as to resign memberships  
10      and exchanges and clubs or other entities in  
11      the same manner and to the same extent as a  
12      Court could do in any proceeding by a judgment  
13      creditor to enforce payment of a judgment or  
14      aid in enforcement of a judgment.

15            So the Illinois Legislature after the  
16      decision in the Itasca versus Thorlief Larsen  
17      case decided to go another path, Judge, and  
18      allow the surrendering of a membership or a  
19      seat on an exchange, Judge.

20            Similarly, when you look under paragraph,  
21      subparagraph E which was the paragraph  
22      previously that allowed it only to be sold by  
23      the sheriff as in the Pick case which they  
24      reversed and said, no, you cannot have it, take  
25      that property and sell it through a sequester,



1       they added the language that the judgment  
2       debtor's property is of such a nature that it  
3       is not readily delivered up to the sheriff for  
4       public sale or if another method of sale is  
5       more appropriate to liquidate the property or  
6       enhance its value at sale the Court may order  
7       the sale of such property by the debtor,  
8       Third-Party Respondent or selling agent other  
9       than the sheriff upon such terms are just and  
10      equitable.

11             So the Court reacted to both of those or  
12      the Legislature reacted to both of those. The  
13      Legislature could have reacted to the Itasca  
14      Bank versus Thorlief Larsen case by saying, oh,  
15      yeah, you could have had contractual rights.  
16      The Court in.

17             THE COURT: Let me interrupt you. Because  
18      isn't your position kind of overly broad?

19             I mean if your position as I understand it  
20      is that the county, excuse me, that the Court  
21      can not override, rewrite, if you will  
22      contractual rights, but as a practical matter  
23      if you had a contractual relationship or  
24      judgment debtor and judgment debtor has a  
25      contractual relationship with someone else and



1 monies are owed to the judgment debtor by that  
2 Third-Party the Court routinely would enter  
3 orders that would impact the contractual rights  
4 of those two parties to get the money to  
5 satisfy the judgment.

6 MR. BOLDT: But, Judge, that's a different  
7 situation. When you are postulating that there  
8 is a contractual situation that has the  
9 judgment debtor receiving funds pursuant to the  
10 contract and I presume that's receiving funds  
11 whether it's employment, whether it's 1099  
12 consulting or whether it's for sale proceeds of  
13 materials or whatever, that's regularly  
14 happening.

15 THE COURT: It's a contractual  
16 relationship.

17 MR. BOLDT: There is a contractual  
18 relationship. However, the statute allows for  
19 that. Under the Thorlief Larsen case, Itasca  
20 Bank case the Court is clear in the Second  
21 District it's an exclusive statute. If it  
22 doesn't give you the right to grab it you  
23 can't. Under B1 through six you can grab those  
24 contractual rights for payment whether it's  
25 employment, whether it's 1099, whether you are

1       selling something to them. But what you are  
2       doing here, Judge, my client doesn't have a  
3       regular consistent right to receive money from  
4       the insurance company. He must surrender the  
5       policy under the terms and conditions of the  
6       policy. And what the Court has done is  
7       effectively surrender that policy outside my  
8       client's rights and outside the insurance  
9       company's rights.

10       My client has an obligation to pay the  
11       premiums if they are due and receive the  
12       insurance coverage. May he take a loan from  
13       that? Yeah, presuming the policy allows it.

14       But there is no specific payments due on a  
15       regular basis like an annuity or like anything  
16       else or like a retirement fund or a pension  
17       that come to my client. They are not coming  
18       regularly. That's not the way it is. And  
19       that's what the Court I believe is postulating  
20       and that's what the statute allows.

21       What the Court has done is stepped in and  
22       said I am terminating that contract.

23       MR. MIRABELLI: Objection. The Court did  
24       not say that.

25       MR. BOLDT: Well, that's what I said.

1           THE COURT: Objection is overruled. I  
2 understand the argument.

3           MR. BOLDT: You know and the second part  
4 of that argument which I believe is the  
5 strongest part of the argument, Judge, is that  
6 these cases that I have cited to the Court.

7           THE COURT: Which I have read.

8           MR. BOLDT: Okay. Indicate that if it's  
9 not permitted under 1402 the Court can not grab  
10 it. And that's what it says at the end of the  
11 Itasca case versus Thorlief Larsen.

12           It cites approvingly the Washington case  
13 that says that contract between Boeing and its  
14 employee that gives him the right to exercise  
15 the payment by turning in the stock for payment  
16 the Court can not order him to do that.

17           That's a contract right between the Boeing  
18 executive and the Boeing Company. He is not  
19 receiving regular money just like my client  
20 isn't.

21           The Court said you can't do that; you are  
22 altering the contract. And the Court also says  
23 in that case because it's the Medina Club  
24 membership and that's why I put those three  
25 things to the Court because the Itasca Bank in

1       that case tried to order the turnover to club  
2       membership and the Court said, no, you have no  
3       authority. Now they do. It says we want you  
4       to order the sale of the club membership; no,  
5       we have no authority. Now you do. We want you  
6       to order him to resign or sell his membership;  
7       no, we can't do that. Now they can because the  
8       statute has been changed.

9               And just like the Washington case, Judge,  
10       that is an independent contract that until that  
11       gentleman who's a Boeing executive exercises  
12       his right he is not entitled to a dime.

13              Upon my client's death his beneficiaries  
14       are entitled to a dime. My client does not  
15       regularly receive money from a whole life  
16       policy. It's not being paid.

17              And that's why I am saying the Court  
18       effectively by allowing the turnover of funds  
19       aggregated that contract between my client and  
20       a Third-Party. And what the Thorlief Larsen  
21       case as I call it says is the Court in the  
22       Second Appellate District citing approvingly  
23       the Washington case which was that same  
24       contract that says you can't do it.

25              And I think the logical portion of the

1 argument after that is that since the  
2 Legislature I presume based on the Thorlief  
3 Larsen case changed B1 through five to allow  
4 the surrender of club memberships and seats on  
5 exchanges and everything else that, yeah, we  
6 are now going to reach these; we are now going  
7 to reach these.

8 And like I said, Judge, I don't want to  
9 keep repeating myself but at the end when  
10 talking about the case to receive stock  
11 appreciation rights that are non  
12 transferable -- my client's life insurance  
13 policy isn't transferable that we are made  
14 aware of -- and Boeing pay him the difference  
15 between the value on the date of the issue and  
16 the value on the date of the exercise subject  
17 to certain rules the Court says, no, you can't  
18 do that.

19 The statute did not give the trial Court  
20 authority to direct the management of a  
21 judgment debtor's assets. That's what you are  
22 doing. You are directing that my client's  
23 assets which are his insurance policies be  
24 surrendered and turned over, and/or contractual  
25 rights for the benefit of the judgment

1 creditor. You are affecting my client's  
2 contractual rights with the insurance company.

3 That's what you are doing. You are  
4 terminating his life insurance outside the  
5 terms and conditions agreed to by the two  
6 parties who signed it; the insurance company  
7 and my client. Boeing and the Boeing executive  
8 signed that agreement.

9 Further, Judge, and I will get to, this is  
10 where I am going to get to the Schak versus  
11 Blom case.

12 THE COURT: Although the life insurance  
13 policy has cash surrender value.

14 MR. BOLDT: But my client has to surrender  
15 it. The Court has stepped in and surrendered  
16 it; not my client. He has specific obligations  
17 to surrender it. That's what the Court in  
18 Washington was asked to do; determine his  
19 appreciation rights now compared to the date of  
20 issue and give us the money.

21 And this Appellate Court said we are not  
22 going to do that with their assets or affect  
23 their contractual rights. The Court was clear.

24 In my estimation, I am sorry I don't want  
25 to get overly passionate about the argument.



1 But in the Schak versus Blom case which was  
2 decided in 2002 a couple years before the  
3 Thorlief Larsen case, Judge. I don't know.

4 It looks like on the second or third page  
5 of the copy I gave to you there was an indented  
6 quote near the top of the page that the Court  
7 has the ability under C3 to compel any person  
8 cited other than the judgment debtor to deliver  
9 up any assets so discovered to be applied in  
10 satisfaction of judgment in whole or in part  
11 when those assets are held under circumstances  
12 that in an action by the judgment debtor he or  
13 she could recover them in specie — specie is a  
14 fancy word for coin or money — or obtain a  
15 judgment for the proceeds or value thereof for  
16 conversion or embezzlement.

17 And Schak versus Blom is cited as 334 Il  
18 App Third 129, 777 Northeastern Second 635,  
19 2002. That is an Appellate Court First  
20 District Third Division case.

21 Judge, my client can not ask the insurance  
22 company to turnover the proceeds of that policy  
23 as if for conversion or embezzlement.

24 THE COURT: He could cash it in any time  
25 he wanted to.



1           MR. BOLDT: He could cash it in any time  
2 he wanted to but again he would have to follow  
3 the surrender provisions.

4           This statute talks about a Third-Party.  
5 And my client or Sarina Ervin, the Petitioner's  
6 client or Petitioner's Counsel client could  
7 stand in my client's shoes and maintain an  
8 action for conversion or embezzlement.

9           Conversion is theft. Embezzlement,  
10 larceny, whatever you want to call it. But my  
11 client can't maintain an action against the  
12 insurance policy for conversion or  
13 embezzlement. He has to, they would say to  
14 him, you want your money follow the terms of  
15 the policy, submit your documentation and  
16 surrender.

17           It's not as if somebody took the policy  
18 from him or took the money from him or  
19 embezzled it from his business. None of that  
20 occurred.

21           We have a contract where the insurance  
22 company says, you pay the premiums or if they  
23 are fully paid I will insure your life. And  
24 under certain conditions you can obtain a loan  
25 for part of that value.

1           It doesn't say that we are going to pay  
2           you a monthly amount. It doesn't. It is not  
3           an annuity. It's not something with regular  
4           amounts being paid. As the Court says, my  
5           client can surrender it.

6           THE COURT: All right. So how is that  
7           different than I go out and purchase a \$10,000  
8           certificate of deposit and judgment creditor  
9           wants to get to that certificate of deposit.  
10          It's a contract I have. It's got to be there  
11          for six months but at any time I can cash it  
12          in. How is that different than the life  
13          insurance policy?

14          MR. BOLDT: It's different than if in that  
15          situation as in my situation the bank can not  
16          refuse to give you the money. It can't. If  
17          you cash it in early they are going to take a  
18          penalty. My client can't walk up to the  
19          insurance company and say, give me the money,  
20          say you have to surrender it. Here is the  
21          procedure. It's set forth in the contract.  
22          You need to surrender the policy under the  
23          terms and conditions of the policy.

24          Putting the money in a CD, Judge, just  
25          changes its form. Is the easiest way for me to

1 describe it. The money is still there. It's  
2 there in specie meaning dollars and cents.

3 As I said the most similar description is  
4 contained in the Thorlief Larsen case where  
5 Boeing and that executive have a contractual  
6 relationship. We are issuing it to you at this  
7 price; when you choose to redeem it cash it in  
8 the difference we will give to you.

9 That's different. He could hold on to it  
10 for a year; he could hold on to it for ten  
11 years. There is no obligation. Same with my  
12 client and the insurance policy. He could cash  
13 it in this year; he could never cash it in and  
14 die and receive the benefits.

15 So standing there and saying I want you  
16 because that's what the judgment creditor did  
17 and the Court said, no, we support Washington's  
18 ruling I want you to order that person because  
19 I know there's money there to cash in that —  
20 not cash in that policy — to invoke the terms  
21 of that contract give you money so I can get to  
22 your assets the Court said, no, there's no  
23 power to do that.

24 And as I told the Court on more than one  
25 occasion the statute has been altered since

1       that case to permit the cashing in of club  
2       memberships and seats on exchanges and other  
3       things. The Legislature was mindful of that.

4             The Legislature could have said you have  
5       the power to cash in a whole life or variable  
6       life or any sort of life insurance policy that  
7       has cash value. Real simple. Amend the  
8       statute.

9             THE COURT: Well, the judgment exemptions  
10       statute does exempt certain life insurance  
11       policies from judgment creditors.

12            But the fact that it exempts certain, only  
13       certain policies but not others would seem to  
14       support the theory that in other instances  
15       where that exemption doesn't apply the Court  
16       could probably order the surrender of a cash  
17       value for life insurance policy.

18            MR. BOLDT: That flies right in the face  
19       of Thorlief Larsen because as I quoted to the  
20       Court there is no requirement.

21            MR. MIRABELLI: I have read it six times.  
22       He has been talking for the last half hour.

23            THE COURT: You will have your chance.

24            MR. MIRABELLI: Okay. I don't know what  
25       he is talking; what section?

1 MR. BOLDT: Judge.

2 THE COURT: So I have the case in front of  
3 me, too.

4 MR. BOLDT: Okay. Thorlief Larsen, 265.  
5 Note two.

6 THE COURT: No. I understand your point  
7 that the holding of the case is that it's not  
8 to be liberally construed beyond the terms that  
9 are set forth in 2-1402.

10 MR. BOLDT: No, Judge. The point on the  
11 bottom of that page halfway through the  
12 paragraph was your statement to me about the  
13 insurance policy, some exempt, some not.

14 The Court says while the notion of a  
15 perfect interrelationship between the exemption  
16 provisions and Section 2-1402 is attractive we  
17 find nothing in Section 2-1402 that requires  
18 it. Meaning that if you want to compare  
19 because that's the argument they put forward  
20 here is that the country club membership is not  
21 exempt.

22 Therefore, the Court in order to  
23 effectuate 1402 must determine that the Court  
24 can in fact reach that club membership and cash  
25 it in and give us the money. And the Court

1 after that went through on page 266 the lengthy  
2 discussion all the way through talking about  
3 the Court doesn't have the power to expand or  
4 restrict a statute and it goes on to state a  
5 Court over reaches if it goes beyond construing  
6 the statute as it is written under the guise of  
7 construction, reads new provisions in to it to  
8 remedy omissions the Court may perceive.

9 And this was the argument exactly of the  
10 bank. It's not exempt under the exemption  
11 statute, therefore, 1402 must be read liberally  
12 and construed liberally that I can grab the  
13 money, I being the bank. And the Appellate  
14 Court said here absolutely not. We read that  
15 1402 as an exclusive statute meaning that if  
16 it's not in here you don't get to grab it.

17 And that argument was made and turned down  
18 by the Appellate Court. And that lead to the  
19 end of it where it says, that the Court doesn't  
20 have the power in the State of Illinois. It  
21 says we reach the same conclusion under 2-1401  
22 that the trial Court does not have authority to  
23 direct the management of a judgment debtor's  
24 assets or to contract rights for the benefit of  
25 of a judgment creditor.

1           My position is quite simple. You are  
2           directing the management of my client's assets,  
3           those life insurance policy and his contractual  
4           rights by entering and if the Court decides to  
5           uphold the turnover order. And since this  
6           Court the Appellate Court Second District says  
7           that the Court over reaches if it does so.

8           And the Schak versus Blom case which  
9           clearly indicates that a Court must if it finds  
10          out it did not have the power to enter a  
11          particular order must find it void. It's void  
12          from its inception. It has no legal effect.  
13          It can be directly or colaterally attacked at  
14          any time.

15          And it even goes on to state, Judge, in  
16          the Schak verses Blom case Courts have a duty  
17          to vacate and expunge void Court orders from  
18          the Court records and thus may sua sponte,  
19          S-U-A S-P-O-N-T-E, declare an order void.

20          The Appellate Court says you over reach.  
21          That's their determination when you affect a  
22          contractual rights or manage my client's  
23          assets. And that's my position as to count  
24          three, Judge. And that's exactly what this  
25          Court is doing. And that this Court under 1402



1 doesn't have the power to do it, and the  
2 argument that the exemption statute doesn't  
3 exempt this particular policy and, therefore,  
4 it must be enforced under 1402 has been  
5 rejected by the Appellate Court of the Second  
6 District since 2004.

7 THE COURT: Thank you. Mr. Mirabelli.

8 MR. MIRABELLI: Without conceding the  
9 first point which I think is dispositive I  
10 listened to Counsel carefully repeat the same  
11 thing over and over and perhaps the Court  
12 didn't get it the first five times.

13 And it dawned on me as I was listening to  
14 him he put so much emphasis on the Thorlief  
15 Larsen case only to tell us all that the  
16 statute has overruled it. So the case has no  
17 force and effect. Instead he wants to argue by  
18 example.

19 And as the Court was talking, with all due  
20 respect to the Court, I was thinking along the  
21 same lines although I didn't think of a CD.

22 If I put, quote, \$10,000 in a bank I have  
23 a contractual relationship with the bank. They  
24 give the money to me. I'm the signatory. You  
25 don't give that money to anybody else unless

1       you're a judgment debtor. And here I have a  
2       judgment.

3               Now Counsel argues briefly incredibly that  
4       I don't have a judgment. Yes. I have a  
5       judgment for over \$700,000. That horse has  
6       left the barn. We have a judgment. And so we  
7       went after the cash. We have a right to go  
8       find cash and discover assets. And the Court  
9       has a right to say turnover the assets.

10              Counsel has talked and I admit I am  
11       absolutely clueless. Perhaps you know, perhaps  
12       you, Your Honor, have read the contract with  
13       the three different insurance companies. I  
14       have not. Nobody has sent those to me. I  
15       don't know what those contracts say.

16              What Counsel is saying here, in the nicest  
17       way possible because he is so eloquent, how  
18       dare you affect my client's contractual rights.  
19       Yet he never put before the Court what are  
20       those contractual rights. All you said was you  
21       are holding the cash in an account. It's this  
22       man's cash. It doesn't belong to anybody else.

23              We have a judgment for \$700,000. We have  
24       a right to collect against this man's cash.  
25       You didn't order him to terminate the policy.

1       You didn't order him to surrender anything.  
2       You didn't order him to resign from his  
3       membership with the three different life  
4       insurance companies. You didn't order that.

5             You said are you holding cash. They  
6       answered yes; this is the amounts of cash we  
7       are holding. You said they are entitled to a  
8       turnover. We are entitled to a turnover.

9             I don't care how long my esteemed opposing  
10       Counsel talks. He cannot change the simple  
11       fact there is a \$700,000 judgment. We have a  
12       right to enforce it. He has raised every  
13       defense.

14            In this case it's like millions for  
15       defense, not a penny for child support. And he  
16       wants to convince you to reverse yourself. And  
17       again I think it's all time barred, and I think  
18       half of his arguments have been waived or you  
19       have heard them at least four times. But we  
20       didn't do anything wrong, Judge. With all due  
21       respect, you didn't do anything wrong.

22            The cash is in the account. We hit them  
23       with the citation. They came in. Only one of  
24       them made some argument. I think it was the  
25       Lincoln Company made some argument about what

1        was the timing of the amount and how much was  
2        to be turned over because there is a set dollar  
3        amount. They said what if the policy has a  
4        little bit less. So we said whatever you have  
5        you will turn it over at that time. And you  
6        ordered the turnover. You have heard most of  
7        these arguments before. The case law hasn't  
8        changed since the last time we were here. The  
9        statute hasn't changed.

10            He keeps citing to the Washington case.  
11        And I am having a hard time trying to keep up  
12        with him because I think it was somewhat a  
13        dicta. But you didn't enter a void order. You  
14        didn't over reach. Wherever there is money and  
15        you have a judgment you can grab on to that  
16        money unless it's exempt.

17            Counsel wants you to equate the order of  
18        turnover with an order to modify his  
19        contractual rights, but you didn't do that.

20            Now it would be so much more helpful if  
21        Counsel supported his arguments with something  
22        other than argument. If he attached a copy of  
23        the policy, if he said, look, if a person has  
24        to turnover the money then we have to cancel  
25        the policy. Well, let's assume hypothetically

1       that's true. If I found 130,000 in each bank  
2       account and he had to turnover the 130 guess  
3       what, he wouldn't have that \$130,000 anymore.  
4       It's gone. That unfortunately is the intended  
5       consequence of when you don't pay a debtor or  
6       you don't pay your creditor and you are a  
7       debtor then you have to lose the benefit of  
8       what you have.

9               So when he turns over the money  
10       hypothetically he then loses the policy.  
11       That's not our fault. That's not your fault.  
12       That makes him a victim of his own actions and  
13       not paying. Just the same as if he did, he  
14       said, Judge, if you make me turnover this  
15       130,000 I will not have 130,000 in the bank any  
16       more. Well, yeah. That's precisely the point  
17       because you owe the money to somebody else.

18              So if you order the company who's holding  
19       the assets who readily said, Judge, we are  
20       complying, we are turning over the money what  
21       happens after they turnover the money I don't  
22       think is of consequence to this Court.

23              To the extent Counsel keep pounding the  
24       issue and pounding the issue about how you  
25       affect his contractual right did you tell the

1 man don't pay your premiums any more; did you  
2 tell the insurance company I'm ordering you not  
3 to make another premium payment.

4 Mr. Lincoln Financial or Lincoln Insurance  
5 Company I am ordering you to terminate. You  
6 said nothing about any contractual rights. All  
7 you said was are you holding money; yes. Here  
8 is our citation to answer; we are holding this  
9 money. You said it's cash. They came in on  
10 this whole issue of exemption.

11 Mr. Steele found a case on point which we  
12 argued last time you found the money wasn't  
13 exempt. Therefore, you ordered to be turned  
14 over. And that's as far as I am going on his  
15 argument. The Thorlief Larsen case is  
16 inconsequential.

17 Counsel argued we had no judgment. I  
18 think that's manifestly wrong. But the first  
19 issue is his motion even timely. And Counsel  
20 said it's timely but we cited you a case called  
21 the Levacari (phonetic) case that a citation is  
22 final and appealable the day it's enforceable.

23 Forget how many times he has come in on  
24 different motions. The fact of the matter is  
25 on March 15th you entered three turnover



1 orders. Those three turnover orders are final  
2 and appealable. What he did was he came in two  
3 days later and said I want to have a stay  
4 because I had this motion to reconsider that he  
5 had not served upon us.

6 You said okay, during the pendency of the  
7 motion to reconsider I am going to say this.  
8 You then denied the motion for reconsideration  
9 on — is this the correct date, John?

10 MR. STEELE: April 12th.

11 MR. MIRABELLI: April 12th. That motion  
12 was denied. So now he is coming in on a  
13 1203(b) motion to do what? He wants you to  
14 reconsider the initial turnover from March.

15 The Court well knows, and I don't have a  
16 case to cite to, but the Court has always  
17 impressed me with your knowledge of the law and  
18 the statute, you cannot have successive post  
19 trial motions. You can't keep extending the  
20 time for appeal by filing post trial motions.

21 You can't have successive 1203(b) motions.  
22 One 1203(b) motion does not beget another 1203  
23 (b) motion. This 1203(b) motion that is  
24 pending before was filed 53 days after the  
25 order for the turnover of the funds. And he is



1 attacking the order for the turnover saying, A,  
2 and I will get to the signature last. I think  
3 that's the least of it. I am attacking  
4 something that happened 53 days earlier and the  
5 reason I can do that is because there was  
6 another motion to reconsider and then you had a  
7 stay order.

8 And for whatever reasons he eloquently  
9 states to you and I don't mean to make light of  
10 these arguments. I know Counsel is arguing to  
11 the best of his ability on behalf of his  
12 client.

13 But it's frustrating to be on this side of  
14 the case. And it's almost and I don't want to  
15 say form over substance but it's almost as if  
16 we have kicked the dog out of the room.

17 The man hasn't paid child support in 17 or  
18 18 years and he wants us to gloss over that.  
19 And I don't think that those facts in and of  
20 itself should change the way the Court rules as  
21 a matter of law.

22 But the overriding public policy of this  
23 State which has come in time and time again on  
24 all the case law is that people have to pay  
25 child support, children have to be supported.

1 He wants to throw that out and say, look, I  
2 have got more technicalities than Carter's got  
3 pills. But he is late.

4 If he wanted the motion to reconsider the  
5 order of the turnover he should have filed it  
6 within 30 days. It was final and appealable on  
7 March 15th when entered. His motion to say  
8 that you granted three days later during those  
9 two or three days this is an order we can  
10 execute upon; we can go forward on.

11 And in real life even though technically  
12 it's final and appealable and we can go out  
13 there and grab the checks nobody going to, by  
14 the time we mail it to the insurance companies  
15 and try to get it back he got to the courthouse  
16 first and you stayed it, saying let me deal  
17 with the motion to reconsider. You don't get  
18 30 days after the denial of the motion to  
19 reconsider to go back and argue the initial  
20 motion.

21 You have 30 days perhaps to file an appeal  
22 of the denial of the motion reconsider and the  
23 underlying order. But you don't get to go back  
24 and now raise the defenses that you have  
25 already raised and have your third or fourth

1 bite at the apple. Finally, and I think that's  
2 simple math. I think he is 53 days way too  
3 late. So all the other things that he wants  
4 to, you know, misdirect the Court's attention  
5 to I think are wrong.

6 And finally as to the signing I keep  
7 looking at the form. And I know Mr. Steele, in  
8 fact for the record I am withdrawing that  
9 motion for sanctions. I appreciate what Mr.  
10 Steele is doing. He is very frustrated. He is  
11 a young lawyer. I appreciate his enthusiasm  
12 but I am going to withdraw the motion for  
13 sanctions because I believe that Mr. Boldt is  
14 arguing in good faith although I respectfully  
15 disagree with him.

16 If Mr. Steele is correct Mr. Boldt asked  
17 the clerk in your courtroom during the last  
18 hearing who signed these. And the clerk said  
19 the clerk does. There is no signature line.  
20 It says prepared by attorney's name. Beermann  
21 Mirabelli.

22 If typing our name could in fact be deemed  
23 in my opinion the equivalent of our signature.  
24 Once we put our name on it whether it's in  
25 handwriting or we type it I think we are pretty

1 much vouching for this. But it's to be signed  
2 by the clerk of the Court. And it's signed by  
3 the clerk of the Court.

4 So I respectfully disagree with Counsel  
5 that this defense is available. But as Mr.  
6 Steele noted under Rule 137 any pleading or  
7 other papers which shall be signed or it shall  
8 be necessary for a lawyer to sign if that  
9 omission is brought to their attention they  
10 have a reasonable period of time in which to  
11 sign it. But I don't think we have to go back  
12 in time and sign these to validate them. I  
13 think they were valid.

14 And we had so many arguments, Your Honor  
15 and I and opposing Counsel over did we have the  
16 right judgment, where did these numbers come  
17 from, was it the right date. As Your Honor  
18 noted in an argument I didn't even make you  
19 said it's not like these dates came from  
20 nowhere. The dates were actually all within  
21 these pleadings. They were attached. These  
22 were valid citations.

23 He has already tried that. So to now come  
24 back and try and argue now the signature is  
25 wrong. First it was the numbers. Now I think

1 he has waived that. If nothing else that  
2 argument was one he could have made; he didn't  
3 make it. You found the citations to be valid.  
4 You issued the turnover order.

5 For all those reasons, one, it's not  
6 timely; two, we don't have to have to the  
7 signature other than the clerk's and; three,  
8 you didn't order this man to do anything to  
9 affect his contract rights.

10 You ordered the company to turnover the  
11 funds which you have every right to do. There  
12 is no order for this man to sign a document to  
13 turnover the funds or sign a document to  
14 release the funds. You didn't order him to  
15 cancel the policies. You didn't order the  
16 insurance company to cancel. You said,  
17 gentlemen, you are holding money, there is a  
18 valid judgment, turn it over. They did that.

19 And I think we are finally, I hope we are  
20 finally at the end of this case at least in the  
21 trial Court level.

22 I have asked the Court to for any one or  
23 all of the reasons I have suggested to deny the  
24 most recent motion to reconsider, allow us to  
25 disperse the funds unless of course, Counsel

1 files a notice of appeal and posts a bond. I  
2 suppose that will be a whole other issue.

3 THE COURT: Thank you. Mr. Boldt, you do  
4 get the last word. It is your motion.

5 MR. BOLDT: Thank you, Your Honor.

6 Judge, first of all I will address the  
7 last matter, signature. I didn't know  
8 attorneys took legal advice from clerks of the  
9 Court. Matter of fact, Judge, and I don't mean  
10 to be flippant to Counsel. He has been nothing  
11 but kind to.

12 Me. But to make the argument in the  
13 courtroom on the record that somehow a clerk  
14 knows more about a form and who's to sign what  
15 and what the statute requires seems to be  
16 insulting to me, Judge, and disrespectful to  
17 the Court.

18 As I pointed out to the Court in my  
19 Exhibit C to my reply Kyle Cooper who's of the  
20 same firm that's arguing in front of you today  
21 knew that on the witness line after the  
22 certification statement under 735 ILCS 5/109 he  
23 had to sign the document.

24 THE COURT: So this is a motion to  
25 reconsider. Why wasn't that issue raised

1           sooner?

2           MR. BOLDT: As to the?

3           THE COURT: Not a new fact.

4           MR. BOLDT: Judge, because until I checked  
5           the Court file and found absolutely no  
6           citations original in it and only had mine did  
7           I make the argument to presume that they didn't  
8           sign those citations.

9           And as Schak versus Blom says you can  
10          attack if the Court determines that is  
11          necessary and I think the Court has to under  
12          the statute the shall language then the Court  
13          can take that into account at any time it can  
14          be attacked in any manner collaterally or  
15          otherwise under the Schak versus Blom case.  
16          Number one.

17          Number two, Judge, 30 days. You stayed  
18          the judgment for 30 days. PNC says when they  
19          are entitled to get the money that's when it is  
20          a final order. They didn't get the money until  
21          after April 12th. They can say whatever they  
22          want. But the PNC case is a 2015 case.

23          And it says until you can put your hands  
24          on the money — excuse me, I shouldn't be  
25          pointing — until you can put your hands on the



1 money it's not a final turnover order. They  
2 can stomp their feet. They can say whatever  
3 they want. It's not a final turnover order.

4 I am not going to beat the horse about the  
5 judgment. There is no valid Court order  
6 judgment as required by the statute, Judge.

7 We keep arguing about contracts and they  
8 keep and you keep bringing up CD's and bank  
9 accounts and I signed something with the bank.  
10 But, Judge, it goes back to the Schak versus  
11 Blom case. If you went to the bank and said  
12 give me the money from my CD or in my savings  
13 account or in any account, in my money market  
14 and they said no you file an action in Court  
15 for conversion. And according to the Schak  
16 versus Blom case that's the type of asset that  
17 can be grabbed.

18 THE COURT: But if I have a life insurance  
19 policy cash surrender value and I go to them as  
20 the policy holder and I say give me my money I  
21 now want to cash out they refuse to.

22 MR. BOLDT: They have every right to  
23 refuse to unless you submit the appropriate  
24 documentation to request for the surrender,  
25 Judge. You don't have a right to the money

1 immediately.

2 THE COURT: Well, how is that different  
3 than the bank would say, well, you need to  
4 submit the form 5(d); it needs to be notarized  
5 and witnesses.

6 MR. BOLDT: Because, Judge, I am buying  
7 life insurance. With the bank you are buying  
8 an investment. You are buying the account.  
9 You are buying the interest rate to return on  
10 it. I am buying life insurance.

11 As a benefit of that life insurance I get  
12 to take a loan out against it. I don't get,  
13 that's what I get. I get to take out a loan  
14 against the money or I get to terminate the  
15 policy. And that's just like I said, the Court  
16 knowingly and approved in the Washington case  
17 because that's the same thing.

18 They wanted, they being the judgment  
19 creditor to him to cash in those stocks. And  
20 the Court said you can't, you can't manage the  
21 judgment creditor's assets. You can't order  
22 him to go out and get a job because the statute  
23 doesn't say you can do that.

24 And that was the exact argument  
25 Mr. Mirabelli made. He said because it's not

1        exempt under the exemption statute this Court  
2        under 1402 has the power to order it to be  
3        turned over. That's exactly what the Itasca  
4        versus Thorlief Larsen case says you cannot do.

5            It says they are not in concert and they  
6        are not perfect. Those arguments were made in  
7        the Itasca Bank versus Thorlief Larsen. And to  
8        read the 1402 in any other way than saying we  
9        can reach all non exempt assets was disavowed  
10       by the Court.

11           And Mr. Mirabelli misses my argument. He  
12       said, well, Thorlief Larsen doesn't matter  
13       anymore because that's been overruled or  
14       changed by the statute. That's not what  
15       happened, Judge. What the Legislature did and  
16       what I thought I argued elequently, both  
17       written and orally, was that the Legislature  
18       pulled out of the Thorlief Larsen case, geez,  
19       we are going to let you grab a seat on the  
20       exchange, a club membership.

21           The Legislature could have pulled out of  
22       the Thorlief Larsen case because again it was  
23       cited approvingly that you can order somebody  
24       to get a job. Oh. Let's add to that section  
25       of 1402 that the Court can make somebody go out

1           and keep a job long. We didn't do that.

2           And the Court when saying the most similar  
3           case is this case out of Washington which is a  
4           contract between Boeing and its executive that  
5           requires somebody to take an affirmative act to  
6           terminate that contract not for a bank deposit  
7           or anything like that. You look at the  
8           statute. You can reach it.

9           We approvingly cite that case and say the  
10          Court can not manage the debtor's assets nor  
11          affect that contractual right. The Court or  
12          the Legislature, excuse me, could have come out  
13          and say, well, we don't like what they said in  
14          Thorlief Larsen.

15          You can order the grabbing of anything  
16          that is not exempt. They could have changed  
17          the statute right then and there and say if  
18          it's not under the exemption statute the Court  
19          has the power under 1402 to grab it.

20          MR. MIRABELLI: He is not rebutting. He  
21          is re arguing it.

22          MR. BOLDT: No. That's exactly what.

23          THE COURT: Okay. I do expect the reply  
24          to be brief.

25          MR. BOLDT: I just said that, Judge.

1 That's exactly what Counsel argued. And last  
2 but not least, Judge, and I don't know how to  
3 say it but I will just said it out.

4 I understand the public policy of this  
5 thing. I understand the need for children to  
6 be supported. But Counsel before and this time  
7 keeps saying, well, geez, the public policy  
8 says we need child support, give us the money;  
9 ignore the fact we didn't sign the citation;  
10 ignore the fact that we didn't get a judgment;  
11 ignore the fact that the Itasca versus Thorlief  
12 Larsen case says that if it's not included in  
13 1402 you can't grab it; ignore the fact that  
14 the Thorlief Larsen case says if it's not  
15 exempt you still can't grab it. Ignore all of  
16 that because we need money for child support.  
17 Don't worry about what the statute says, just  
18 make sure we get our child support, Judge.

19 And I find that to be a very weak  
20 argument. I just do, Judge. And the Schak  
21 versus Blom case has powerful language that I  
22 have never seen anywhere else about a Court  
23 finding whether it's timely or not, whether you  
24 can attack a judgment collaterally if the Court  
25 finds as the Court did in that case that the

1 turnover order never should have been entered;  
2 you can attack it at any time collaterally.

3 And the Court has an obligation on its own  
4 to eliminate that void order without the  
5 signature, without a Court order judgment and  
6 without 1402 permitting this. It doesn't seem  
7 to permit it. Legislature could have changed  
8 it.

9 I respectfully request that the motion to  
10 vacate be granted, Judge.

11 THE COURT: Thank you. All right.

12 I have considered your arguments. I have  
13 also read the brief. I have read the cases you  
14 cited. I have tried to do some of my own  
15 research. There are some interesting issues in  
16 this case in my opinion.

17 But the first question I think that I have  
18 to answer is whether I think the motion to  
19 reconsider was timely or not.

20 The judgment debtor's Counsel has cited  
21 PNC Bank. And as he noted in that case it said  
22 there are few cases discussing which orders in  
23 supplemental proceedings are final orders.

24 But then it goes on in that case to hold  
25 that the order entered in the supplemental



1 proceeding was not a final order because it  
2 does not put the Plaintiff in a position to  
3 collect the judgment amounts or direct  
4 Third-Parties to turnover funds. So in that  
5 case there had been no turnover order.

6 I don't know how to read that case other  
7 than to suggest that the holding of that case  
8 would have been different had there been a  
9 turnover order entered such as in this case.

10 So in this case on March 15th the Court  
11 did enter three turnover orders. Two days  
12 later those were stayed based on the pendency  
13 of a motion to reconsider filed with respect to  
14 some prior citations.

15 So ultimately the motion to reconsider was  
16 filed more than 30 days after. And again I  
17 understand it's not entirely clear but based on  
18 the Second District case I am left to conclude  
19 that the motion to vacate was filed more than  
20 30 days after the turnover order became final  
21 and appealable. Yes. It was stayed for  
22 various reasons but the turn over order had  
23 been entered at that point in time.

24 I also note, so I do think that's  
25 dispositive of the motion to reconsider. Just



1       commenting further I do think that it's  
2       appropriate for me to note that the issue  
3       concerning the signature or non signature by an  
4       attorney of the citations form that is being  
5       used is not the most clear form. I would say  
6       that. There was information as to who issued  
7       it, at least what firm issued it but that issue  
8       was not a new fact.

9               The purpose of a motion to reconsider is  
10       to bring to the Court's attention facts that  
11       weren't available, new facts or errors of law.  
12       To me that was an issue that could have and  
13       should have been raised initially in response  
14       to the motion for the turnover order.

15              The last thing I will comment is the  
16       argument, I think again it's an interesting  
17       argument that the Court didn't have the  
18       authority to force the life insurance companies  
19       to turnover the cash value of the policies that  
20       they held. I do think that this falls; that  
21       this sort of order falls under Section 2-1402  
22       sub part three in that it's an asset held by a  
23       Third-Party that the judgment debtor could  
24       recover for conversion or embezzlement.

25              That is if the policy holder decided for

1        whatever reason he wanted to cash in and  
2        collect the cash value of the policy he could  
3        have done that. And if the life insurance  
4        company refused to tender it he would have had  
5        a cause of action for conversion or  
6        embezzlement against the life insurance  
7        companies.

8                So I do think it falls squarely within  
9        2-1402(c) (3) as the type of asset that can be  
10       attached and collected upon in a post judgment  
11       proceeding.

12               I also think it's noteworthy again under  
13       Section 12-1001 there are specific exemptions  
14       for specific types of life insurance policies  
15       and the cash, net cash surrender value of  
16       certain life insurance policies which again  
17       presume that unless it falls within that  
18       exemption net cash values of life insurance  
19       policies are not exempt and can be collected  
20       upon in the post judgment proceedings.

21               So for those reasons I am denying the  
22       motion to reconsider.

23               So I need to go back and look at what the  
24       last order said with respect to the monies that  
25       are being held.

1           MR. MIRABELLI: Your Honor, do you have a  
2           copy?

3           THE COURT: I do. All right. The last  
4           order provided that the funds that were turned  
5           over by.

6           MR. STEELE: Lincoln, Monarch and Penn.

7           THE COURT: Lincoln Financial Group,  
8           Monarch Life Insurance Company and Penn Mutual  
9           Life Insurance Company that are currently being  
10          held by the Beermann Pritikin Law Firm.

11          Since the motion to reconsider has been  
12          denied since the Illinois Department of Health  
13          and Family Services is not seeking to collect  
14          any of those monies at this point it would be  
15          appropriate for those monies to be released  
16          from the escrow that are being held that the  
17          law firm is holding them in and released to the  
18          judgment creditor.

19          Is there anything else that we need to  
20          address this afternoon?

21          MR. MIRABELLI: I would only add to that  
22          the Court only makes one judgment creditor  
23          and/or her attorneys.

24          THE COURT: Correct. Sure.

25          MR. MIRABELLI: And perhaps now would be a

1 time to get if there is no just reason to delay  
2 the enforcement of appeal of this order so we  
3 know we have a final and appealable order.

4 THE COURT: I am not opposed to that  
5 language. I don't think it's necessary.

6 But anything else we need to add or  
7 consider from Mr. Boldt?

8 MR. BOLDT: No, Your Honor.

9 THE COURT: Ms. Stalter, anything else we  
10 need to consider in this order?

11 MS. STALTER: You granted our petition to  
12 intervene but we have the other petition for  
13 the determination of the arrearage and the  
14 lawful collection of those arrearage. That's a  
15 petition so I didn't know if the other one.

16 THE COURT: There is no response filed to  
17 that?

18 MR. BOLDT: None were required, Judge.

19 You indicated on the last occasion that  
20 the petition to intervene had to be determined  
21 first.

22 THE COURT: All right.

23 MR. STEELE: One statement, Judge.

24 THE COURT: Well, let me first follow-up  
25 on this. So what relief, if anything, are you

1 asking for in this order? You are not asking  
2 for money.

3 MS. STALTER: Correct. This was attached  
4 to the petition to intervene and the  
5 determination of the monies owed to the Crown  
6 and that the department had the authority to  
7 collect and enforce the payment due on that  
8 arrearage amount.

9 MR. BOLDT: I would think my client should  
10 be given leave to respond, Judge, because the  
11 Court did not require it previously.

12 THE COURT: That only seems fair. All  
13 right. So you are not objecting to anything in  
14 this order that I have just laid out?

15 MS. STALTER: No. You granted our  
16 petition to intervene so I am good with that.

17 MR. MIRABELLI: Can we do two orders,  
18 Judge? One order allowing intervention and  
19 then.

20 THE COURT: Yes. You have to get a  
21 separate order for that but what is it.

22 I mean I am just trying to think since the  
23 citations are terminated the money has been  
24 turned over you are asking for some sort of  
25 declaratory judgment by this Court as to? I

1 mean the reason that I wanted notice to be  
2 given to you and you allowed to participate is  
3 if you had any claim as to this money speak now  
4 or forever hold your peace.

5 MS. STALTER: You are limiting it to this  
6 pot of money?

7 THE COURT: I am.

8 MS. STALTER: And my understanding from  
9 our client is they are not interested in this  
10 pot of money specifically.

11 But what if Mr. Boldt's client wins the  
12 lottery they want to be able to attach that or  
13 if there are other monies that he receives and  
14 they want to be able to as through regular  
15 child support enforcement proceedings be able  
16 to collect monies that are due the Crown  
17 through that regular statutory process.

18 THE COURT: Sounds to me like it's a  
19 declare.

20 MR. BOLDT: Sounds that way to me, too,  
21 Judge.

22 THE COURT: Sounds like you are seeking  
23 declaratory relief from me which I would  
24 certainly give you a chance to respond to.

25 I am not sure if the impact on that as to

1           whether this is final and appealable or not.

2           MR. BOLDT: It may affect whether the  
3           entire matter has been determined, Judge.

4           You are correct at least in my view.  
5           Obviously Counsel for Petitioner would say  
6           something else. And quite frankly, Judge, I  
7           think this Court and all the Counsel standing  
8           in front of it are well aware that if you write  
9           it is a final and appealable order the  
10          Appellate Court is going to decide whether it  
11          is or not.

12          THE COURT: Right. Whether I say it.

13          MR. BOLDT: Whether we say it.

14          THE COURT: Is not determinative.

15          MR. MIRABELLI: That's why he stepped up  
16          to tell me I made a mistake.

17          THE COURT: Go ahead, sir.

18          MR. STEELE: And normally I'm not in the  
19          business of correcting the boss.

20          THE COURT: You got to do that sometimes.

21          MR. STEELE: He requested that the order  
22          recite that it was final and appealable. It's  
23          actually, at least the order pertaining to the.

24          THE COURT: Motion to reconsider.

25          MR. STEELE: Is not final and appealable



1       because it was time barred so he would have had  
2       to file an appeal within 30 days of the entry  
3       of the turnover orders. So to try to bootstrap  
4       it into an appeal the Appellate Court is going  
5       to give him the boot anyway because he is more  
6       than 30 days outside of judgment orders.

7               MR. BOLDT: And I would disagree with  
8       that, Judge. As the PNC Bank case clearly  
9       indicated there is not a lot of law on that.  
10      And my argument was clear that until you  
11      receive the money it is not a final order. And  
12      I could file within 30 days of that so I know  
13      what the Court ruled.

14             I respectfully disagree with the Court and  
15      I respectfully disagree with the Court under  
16      the Schak versus Blom case as to whether the  
17      Court.

18             MR. MIRABELLI: I won't put in the  
19      language final and appealable.

20             THE COURT: So here is what I am doing.

21             I am denying the motion to reconsider. I  
22      am directing that the funds that are being held  
23      can be released from whatever, they were prior  
24      Court orders they are now released to be  
25      distributed to the judgment creditor and their

1 Counsel. I will give, certainly give Mr. Boldt  
2 an opportunity to respond to the petition to  
3 determine arrearages. And we can set a  
4 briefing schedule and a hearing on that.

5 And as to whether any of these are final  
6 and appealable is an issue you will have to  
7 sort through along with the Appellate Court I  
8 guess.

9 MR. BOLDT: I guess, Judge. Are you going  
10 to keep the case as to the motion to intervene?

11 Because Counsel indicated that once the  
12 intervention is granted the case normally goes  
13 down to Judge Waites. Is that correct, Ladies?

14 MS. SALZWEDEL: For issues of child  
15 support.

16 MS. STALTER: Well, that is true.

17 MS. SALZWEDEL: All of the 4 D cases are  
18 assigned to Judge Waites for issues of child  
19 support. Only they are assigned to other  
20 Judges on the first floor for non support  
21 related issues.

22 MR. BOLDT: And since you granted the  
23 petition to intervene under 4 D and it would  
24 seem that the case would have to be that  
25 portion at least of the case according to what

1 the State's Attorneys are telling me should be  
2 transferred to Judge Waites because you were  
3 granted leave to intervene under 4 D. Is that  
4 correct?

5 MR. MIRABELLI: That is correct.

6 MR. BOLDT: So the order should reflect  
7 that it is granted under 4 D.

8 THE COURT: Well, I am going to keep the  
9 case for now. And Judge Waites can, you can  
10 ask me to transfer it down there or she can ask  
11 me to transfer it down there. I am not sure  
12 what there is left to tag on to. You have  
13 intervened in to an action that.

14 MS. STALTER: Right.

15 THE COURT: That is resolved. So how much  
16 time would you like to file a response to their  
17 petition?

18 MR. BOLDT: 21 days, Judge.

19 THE COURT: That's fine. How much time  
20 would you like for a reply?

21 MS. STALTER: I have to see where that  
22 puts us. See our schedules.

23 MR. BOLDT: 23rd of June.

24 THE COURT: Three weeks is 23rd. One week  
25 would be the 30th of June.

1 MR. BOLDT: Would be July 7th.

2 THE COURT: July 7th.

3 MR. BOLDT: They can have 14 days to  
4 reply, Judge.

5 THE COURT: July 7th for a reply.

6 MS. STALTER: Yes. July 7th for a reply  
7 will be fine.

8 THE COURT: Hearing any day of the week of  
9 the 17th.

10 MR. BOLDT: Let me grab my book, Your  
11 Honor.

12 MS. SALZWEDEL: Standard intervention  
13 order.

14 MR. BOLDT: What are we looking at did you  
15 say?

16 THE COURT: The week of July 17th.

17 MR. BOLDT: Okay. Tell me which day,  
18 Counsel. I know Thursday is your busy day.

19 MS. STALTER: I apologize.

20 MR. BOLDT: Judge, I would like the other  
21 order that Counsel is preparing to reflect that  
22 the findings of the Court and rulings of the  
23 Court are contained in the transcript.

24 THE COURT: That's fine.

25 MS. STALTER: Would Friday be an option,

1 the 21st?

2 THE COURT: Sure.

3 MS. STALTER: It is the end of our week.  
4 There is going to be a co-op Monday and  
5 Thursday of that week. I can double-check and  
6 just so I think Friday would probably be the  
7 easiest and I'm available any time.

8 What is your schedule like?

9 MS. SALZWEDEL: I should be fine on a  
10 Friday afternoon.

11 MR. BOLDT: Okay.

12 THE COURT: 1:30 is fine. Okay. Make  
13 sure that you recite that the motion for  
14 sanctions is being withdrawn. Thank you. It  
15 should say for the reasons stated on the record  
16 as transcribed by.

17 MR. BOLDT: Okay. Thank you.

18 THE COURT: Thank you.

19 MS. STALTER: You said 1:30 on the 21st?

20 THE COURT: Sure.

21 (Proceedings concluded at 3:15 PM)

22

23

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25

1     STATE OF ILLINOIS     )

2                                     ) SS:

3     COUNTY OF L A K E     )

4                     I, Debra L. Zeit, do hereby certify that I  
5     am a Court Reporter doing business in the County of  
6     Lake and State of Illinois; that I reported by means  
7     of machine shorthand the testimony given at the  
8     foregoing Report of Proceedings, and that the  
9     foregoing is a true and correct transcript of my  
10    shorthand notes so taken as aforesaid.

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DEBRA L. ZEIT, CSR  
Lake County, IL  
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